

## LEGISLATIVE BILL 808

Approved by the Governor April 17, 2001

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson;  
Connealy, 16; Erdman, 47; Janssen, 15; Preister, 5;  
Quandahl, 31; Redfield, 12

AN ACT relating to emergency services; to amend sections 23-3547 and 23-3594, Reissue Revised Statutes of Nebraska, and sections 13-303, 35-514.02, 35-1301, 35-1303, 35-1309, 35-1310, 35-1312, 35-1313, 35-1316, 35-1318, 35-1320, 35-1321, 35-1324, 35-1326, 35-1327, 35-1330, and 84-1503, Revised Statutes Supplement, 2000; to authorize the provision of ambulance service as prescribed; to change and eliminate provisions relating to volunteer emergency responders; to eliminate a board and a fund; to provide standard criteria for qualified active service; to transfer powers and duties; to harmonize provisions; to repeal the original sections; to outright repeal sections 35-1304 to 35-1308, 35-1311, 35-1325, and 35-1328, Revised Statutes Supplement, 2000; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 13-303, Revised Statutes Supplement, 2000, is amended to read:

13-303. The county boards of counties and the governing bodies of cities and villages may establish an emergency medical service, including the provision of scheduled and unscheduled ambulance service, as a governmental service either within or without the county or municipality, as the case may be. The county board or governing body may contract with any city, person, firm, or corporation licensed as an emergency medical service for emergency medical care by out-of-hospital emergency care providers. Each may enter into an agreement with the other under the Interlocal Cooperation Act or Joint Public Agency Act for the purpose of establishing an emergency medical service or may provide a separate service for itself. Public funds may be expended therefor, and a reasonable service fee may be charged to the user. Before any such service is established under the authority of this section, the county board or the governing bodies of cities and villages shall hold a public hearing after giving at least ten days' notice thereof, which notice shall include a brief summary of the general plan for establishing such service, including an estimate of the initial cost and the possible continuing cost of operating such service. If the board or governing body after such hearing determines that an emergency medical service for emergency medical care by out-of-hospital emergency care providers is needed, it may proceed as authorized in this section. The authority granted in this section shall be cumulative and supplementary to any existing powers heretofore granted. Any county board of counties and the governing bodies of cities and villages may pay their cost for such service out of available general funds or may levy a tax for the purpose of providing the service, which levy shall be in addition to all other taxes and shall be in addition to restrictions on the levy of taxes provided by statute, except that when a fire district provides the service the county shall pay the cost for the county service by levying a tax on that property not in a fire district providing the service. The levy shall be subject to section 77-3443.

Sec. 2. Section 23-3547, Reissue Revised Statutes of Nebraska, is amended to read:

23-3547. Each local hospital district shall have and exercise the following powers:

- (1) To have and use a corporate seal and alter it at pleasure;
- (2) To sue and be sued in all courts and places and in all actions and proceedings whatever;
- (3) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and outside the district and to control, dispose of, convey, and encumber the same and create a leasehold interest in such property for the benefit of the district;
- (4) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district, which power shall be exercised in the manner provided in sections 76-704 to 76-724;
- (5) To administer any trust declared or created for hospitals of the district and receive by gift, devise, or bequest and hold in trust or

otherwise property situated in this state or elsewhere and, when not otherwise provided, dispose of the same for the benefit of such hospitals;

(6) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district and to perform such functions in respect to the legal affairs of the district as the board may direct;

(7) To employ such officers and employees, including architects and consultants, as the board of directors deems necessary to carry on properly the business of the district;

(8) To prescribe the duties and powers of the manager, secretary, and other officers and employees of any such hospitals, to determine the number of and appoint all such officers and employees, and to fix their compensation. Such officers and employees shall hold their offices or positions at the pleasure of such boards;

(9) To do any and all things which an individual might do which are necessary for and to the advantage of a hospital;

(10) To establish, maintain, lease, or operate one or more hospitals within or outside the district, or both. For purposes of the Nebraska Local Hospital District Act, hospital has the meaning provided in subdivision (10) of section 23-3594;

(11) To do any and all other acts and things necessary to carry out the Nebraska Local Hospital District Act; and

(12) To acquire, maintain, and operate ambulances or an emergency medical service, including the provision of scheduled and unscheduled ambulance service, within and outside the district.

Sec. 3. Section 23-3594, Reissue Revised Statutes of Nebraska, is amended to read:

23-3594. Each hospital authority shall have and exercise the following powers:

(1) To have perpetual succession as a body politic and corporate, except that any county board having declared a hospital authority to be a public corporation and body politic of this state shall, upon a showing duly made and with appropriate notice given to the Secretary of State, but not sooner than upon expiration of a period of two years from and after the date upon which the record relating to formation of such hospital authority was filed with the Secretary of State pursuant to section 23-3587, enter an order dissolving any hospital authority which does not then have under construction, own, lease as lessee or as lessor, or operate a hospital;

(2) To have and use a corporate seal and alter it at pleasure;

(3) To sue and be sued in all courts and places and in all actions and proceedings whatever;

(4) To purchase, receive, have, take, hold, lease as lessee, use, and enjoy property of every kind and description within the limits of the authority and to control, dispose of, sell for a nominal or other consideration, convey, and encumber the same and create a leasehold interest in the same, as lessor, with any nonprofit person, firm, partnership, limited liability company, association, or corporation, other than a county, city, or village in this state, for the benefit of the authority;

(5) To administer any trust declared or created for hospitals of the authority and to receive by gift, devise, or bequest and hold, in trust or otherwise, property situated in this state or elsewhere and, if not otherwise provided, dispose of the same for the benefit of such hospitals;

(6) To employ legal counsel to advise the board of trustees in all matters pertaining to the business of the authority and to perform such functions with respect to the legal affairs of the authority as the board may direct;

(7) To employ such technical experts and such officers, agents, and employees, permanent and temporary, as it may require and to determine their qualifications, duties, and compensation, such technical experts, officers, agents, and employees to hold their offices or positions at the pleasure of the board;

(8) To delegate to one or more of its agents or employees such powers and duties as it deems proper;

(9) To do any and all things which an individual might do which are necessary for and to the advantage of a hospital;

(10) To purchase, construct, establish, or otherwise acquire and to improve, alter, maintain, and operate one or more hospitals situated within the territorial limits of the authority. The term hospital as used in the Hospital Authorities Act shall mean and include, except as used in section 23-3597, any structure or structures suitable for use as a hospital, nursing home, clinic, or other health care facility, laboratory, laundry, nurses' or interns' residences and dormitories, administration buildings, research

facilities, and maintenance, storage, or utility facilities and other structures or facilities reasonably related thereto or required or useful for the operation thereof, including parking and other facilities or structures essential or convenient for the orderly operation thereof and shall also include furniture, instruments, equipment, and machinery and other similar items necessary or convenient for the operations thereof, and any hospital authority which has established or acquired a hospital may also purchase, construct, or otherwise acquire and improve, alter, maintain, and operate all types of ancillary care facilities, including rehabilitation, recreational, and research facilities for children, addicted persons, disabled individuals, and elderly persons, including both residential and outpatient care and ancillary facilities for physicians, technicians, educators, psychologists, social scientists, scientists, nutritionists, administrators, interns, residents, nurses, students preparing to engage in the health service field, and other health care related personnel;

(11) To enter into contracts and other agreements for the purchase, construction, establishment, acquisition, management, operation, and maintenance of any hospital or any part thereof upon such terms and conditions and for such periods of time as its board of trustees may determine;

(12) To do any and all other acts and things necessary to carry out the Hospital Authorities Act, including the power to borrow money on its bonds, notes, debentures, or other evidences of indebtedness and to secure the same by pledges of its revenue in the manner and to the extent provided in the act and to fund or refund the same; and

(13) To acquire, maintain, and operate ambulances or an emergency medical service, including the provision of scheduled or unscheduled ambulance service, within and without the authority.

Sec. 4. Section 35-514.02, Revised Statutes Supplement, 2000, is amended to read:

35-514.02. A rural or suburban fire protection district may establish an emergency medical service, including the provision of scheduled or unscheduled ambulance service, or provide fire protection service either within or without the district, may enter into agreements under the Interlocal Cooperation Act and the Joint Public Agency Act for the purpose of establishing an emergency medical service or providing fire protection service, may contract with any city, person, firm, corporation, or other fire protection district to provide such services, may expend funds of the district, and may charge a reasonable fee to the user. Before any such services are established under the authority of this section, the rural or suburban fire protection district shall hold a public hearing after giving at least ten days' notice, which notice shall include a brief summary of the general plan for establishing the emergency medical service or providing fire protection service, including an estimate of the initial cost and the possible continuing cost of operating the emergency medical service or fire protection service. If the board after such hearing determines that an emergency medical service or fire protection service is needed, it may proceed as authorized in this section. The authority granted in this section shall be cumulative and supplementary to any existing powers heretofore granted. Any fire protection district providing any service under this section may pay the cost for the service out of available funds or may levy a tax for the purpose of supporting an emergency medical service or providing fire protection service, which levy shall be in addition to any other tax for such fire protection district and shall be subject to section 77-3443. When a fire protection district levies a tax for the purpose of supporting an emergency medical service, the taxpayers of such district shall be exempt from any tax levied under section 13-303. The board of a fire protection district which provides fire protection service outside of the district may charge a political subdivision with which the district has entered into an agreement for such service on a per-call basis for such service.

Sec. 5. Section 35-1301, Revised Statutes Supplement, 2000, is amended to read:

35-1301. Sections 35-1301 to 35-1330 and sections 8 and 10 of this act shall be known and may be cited as the Volunteer Emergency Responders Recruitment and Retention Act.

Sec. 6. Section 35-1303, Revised Statutes Supplement, 2000, is amended to read:

35-1303. For purposes of the Volunteer Emergency Responders Recruitment and Retention Act:

(1) Active emergency responder means a person who has been approved by the duly constituted authority in control of a volunteer department as a volunteer member of the department who is performing service as both a firefighter and on a rescue squad in the protection of life, health, or

property from fire or other emergency, accident, illness, or calamity in connection with which the services of such volunteer department are required and whose services and activities during a year of service meet the minimum requirements for qualification as an active member of his or her volunteer department as established by ~~the board section 8 of this act;~~

(2) Active rescue squad member means a person who has been approved by the duly constituted authority in control of a volunteer department as a volunteer member of the department who is performing service as part of a rescue squad in the protection of life or health from emergency, accident, illness, or calamity in connection with which the services of such volunteer department are required and whose services and activities during a year of service meet the minimum requirements for qualification as an active member of his or her volunteer department as established by ~~the board section 8 of this act;~~

(3) Active volunteer firefighter means a person who has been approved by the duly constituted authority in control of a volunteer department as a volunteer member of the department who is performing service as a firefighter in the protection of life or property from fire or other emergency, accident, or calamity in connection with which the services of such volunteer department are required and whose services and activities during a year of service meet the minimum requirements for qualification as an active member of his or her volunteer department as established by ~~the board section 8 of this act;~~

(4) Annual account means a separate account of a city, village, or rural or suburban fire protection district conducting a service award benefit program established for each year of service in which such program is being conducted to which is credited all funds, from whatever source, furnished for the purpose of providing service award benefits to qualifying participants in the service award benefit program during that year of service, with the funds in the account to be held in trust and invested for ultimate payment as service award benefits to those qualifying participants;

(5) ~~Board means the Volunteer Service Award Benefit Review Board;~~

~~(6)~~ City of the first class, city of the second class, village, rural fire protection district, and suburban fire protection district means such political subdivisions as they are defined in statute, and when such political subdivisions are granted authority pursuant to the Volunteer Emergency Responders Recruitment and Retention Act to engage in any conduct authorized by the act, the use of these terms shall be construed to mean and include any combination of two or more of these political subdivisions acting in concert pursuant to an agreement entered into under the terms of the Interlocal Cooperation Act or the Joint Public Agency Act;

~~(7)~~ (6) Emergency response services means the services provided by a volunteer department in the protection of life, health, or property from fire or other emergency, accident, illness, or calamity;

~~(8)~~ (7) Nonforfeitable means the unconditional and legally enforceable right by a participant or beneficiary to receive service award benefits pursuant to a service award benefit program at the entitlement age or under the circumstances specified in the Volunteer Emergency Responders Recruitment and Retention Act;

~~(9)~~ (8) Participant means an active emergency responder, active rescue squad member, or active volunteer firefighter who is currently eligible or who will, upon the completion of the requirements of the act, be eligible to receive a service award benefit;

~~(10)~~ (9) Service award benefit program means a program established, governed, administered, and maintained pursuant to the act which provides service award benefits for active emergency responders, active rescue squad members, and active volunteer firefighters, as provided for in the act, for each year of active service, as defined by the standard criteria for qualified active service, and which program meets the length of service award plan requirements of section 457(e)(11) of the Internal Revenue Code as ~~modified by the Small Business Job Protection Act of 1996~~ defined in section 49-801.01;

(10) Specified years of service means the total number of years of service which must be served by a volunteer member of a volunteer department to qualify that member for a service award benefit as determined by the governing body of the city, village, or rural or suburban fire protection district conducting the program;

(11) Standard criteria for qualified active service means ~~the initial report and any subsequent annual amendments formally adopted by the board pursuant to the Volunteer Emergency Responders Recruitment and Retention Act which establish~~ the minimum annual service requirements for the qualification of a volunteer member of a volunteer department as an active emergency responder, active rescue squad member, or active volunteer

firefighter so as to enable such person to participate in a service award benefit program as provided in section 8 of this act;

(12) Unallocated contributions means that portion of an annual account representing the proportionate equal shares of (a) the principal amount of all contributions from whatever source deposited into the annual account for such year of service and (b) all income derived therefrom, attributable to participants listed on the certification list for that year of service who have subsequently ceased to be volunteers or participants and, in consequence, failed to qualify for a service award benefit as provided in section 35-1312 or 35-1313;

(13) Volunteer means a person who meets the requirements necessary to qualify as a bona fide volunteer as defined in section 457(e)(11)(B)(i) of the Internal Revenue Code, as defined in section 49-801.01, and who, on behalf of and at the request or with the permission of a city, village, or rural or suburban fire protection district, engages in activities related to fire protection, fire suppression, or emergency response for the purpose of protecting human life, health, or property for which activities the person receives no remuneration;

(14) Volunteer department means any volunteer fire department or volunteer first-aid, rescue, ambulance, or emergency squad or volunteer fire company, association, or organization serving any city, village, or rural or suburban fire protection district by providing fire protection or emergency response services for the purpose of protecting human life, health, or property; and

(15) Year of service means the period from July 1 through the following June 30 twelve-month period established under a service award benefit program in which the services and activities of a volunteer member of a volunteer department are monitored to determine if the volunteer qualifies for certification by the duly constituted authority of the volunteer department as meeting the standard criteria for qualified active service and each succeeding twelve-month period of the program.

Sec. 7. Section 35-1309, Revised Statutes Supplement, 2000, is amended to read:

35-1309. (1) ~~After March 1, 2000, any city of the first class, city of the second class, village, rural fire protection district, or suburban fire protection district which places its primary reliance for emergency response services upon a volunteer department may adopt a service award benefit program as provided in the Volunteer Emergency Responders Recruitment and Retention Act. A service award benefit program shall only begin on July 1, 2000, or on July 1 of any subsequent year.~~

(2) ~~No city, village, or fire protection district shall be required to adopt a service award benefit program. Nothing in the act shall be construed to mandate the creation of a service award benefit program in any city, village, or fire protection district. The act shall not be construed to prohibit any city, village, or fire protection district from ending or eliminating any service award benefit program after its adoption, except that a city, village, or fire protection district may not end its program or its responsibility under its program with regard to any year of service completed prior to such elimination.~~

(3) ~~Each service award benefit program shall include provisions governing the procedures to be followed in the tallying, recording, verifying, and auditing of points earned by volunteers and provisions which provide for the collection of such other information regarding participants as may be requested by the State Fire Marshal to facilitate administration of the program.~~

(4) ~~The board shall develop a model ordinance or resolution for the adoption of a service award benefit program to be used by cities, villages, and rural and suburban fire protection districts in the creation of their programs.~~

Sec. 8. (1) The standard criteria for qualified active service shall be based on a total of one hundred possible points per year. A person must accumulate at least fifty points out of the possible one hundred points during a year of service in order to qualify as an active emergency responder, active rescue squad member, or active volunteer firefighter. Points shall be awarded as provided in this section.

(2) A fixed amount of twenty-five points shall be awarded to a person for responding to ten percent of the emergency response calls which are (a) dispatched from his or her assigned station or company during a year of service and (b) relevant to the appropriate duty category of the person. An emergency response call shall mean any dispatch involving an emergency activity that an emergency responder, rescue squad member, or volunteer firefighter is directed to do by the chief of the fire department, the chief

of the ambulance service, or persons authorized to act for the chiefs. No points shall be awarded for responding to less than ten percent of the emergency response calls.

(3) For participation in training courses, a maximum total of not more than twenty-five points may be awarded on the following basis:

(a) For courses under twenty hours duration: One point shall be awarded per two hours, with a maximum of five points awarded per course;

(b) For courses of between twenty hours and forty hours duration: Five points shall be awarded, plus one point awarded for each hour after the first twenty hours, with a maximum of ten points awarded per course; and

(c) For courses over forty hours duration: Fifteen points shall be awarded per course.

(4) Drills shall mean regular monthly drills used for instructional and educational purposes, as well as mock emergency response exercises to evaluate the efficiency or performance by the personnel of a volunteer department. Each drill shall last at least two hours. One point shall be awarded per drill. For participation in drills, a maximum total of not more than twenty points shall be awarded.

(5) For attendance at an official meeting of the volunteer department or mutual aid organization, one point shall be awarded per meeting up to a maximum total of not more than ten points.

(6) A fixed award of ten points shall be awarded for completion of a term in one of the following elected or appointed positions: (a) An elected or appointed position defined in the volunteer department's constitution or bylaws; (b) an elected or appointed position of a mutual aid organization; or (c) an elected office of the Nebraska State Volunteer Firefighter's Association or other organized associations dealing with emergency response services in Nebraska.

(7) For participation in activities of fire prevention communicated to public, open house, speaking engagements on behalf of the volunteer department, presenting fire or rescue equipment at a parade or other public event, attendance at the Nebraska State Volunteer Firefighter's Association Convention, attendance at a meeting of a governing body of a city, village, or rural or suburban fire protection district on behalf of the department, or other activities related to emergency services not covered in this subsection, one point shall be awarded per activity, but no more than one point shall be awarded per day, up to a maximum total of not more than ten points.

(8) Activities which may qualify a person to receive points in more than one of the categories described in subsections (2) through (7) of this section shall only be credited in one category.

Sec. 9. Section 35-1310, Revised Statutes Supplement, 2000, is amended to read:

35-1310. Each volunteer department serving a city, village, or rural or suburban fire protection district conducting a service award benefit program shall designate one member of the department to serve as the certification administrator. The designation of such individual as the certification administrator shall be confirmed and approved by the governing body of that city, village, or rural or suburban fire protection district. It shall be the duty of the certification administrator to keep and maintain records on the activities of all volunteer members and participants and award points for such activities based upon the standard criteria for qualified active service. Each volunteer member and participant shall be provided by the certification administrator with notice of the total points he or she has accumulated during the immediately preceding six-month period from July 1 to December 31 on January 15, and from January 1 to June 30 on July 15 each six-month period in which the program is in operation. No later than August 1 of each year one month following the first year of service during which a service award benefit program has been in existence, the certification administrator shall forward to the governing body of the city, village, or fire protection district a report specifying the name of each volunteer member of the volunteer department, the number of points accumulated by each volunteer during the year of service, and the names of those volunteers who have qualified as active emergency responders, active rescue squad members, or active volunteer firefighters. At the time of the filing of the report, each volunteer member of the department whose name does not appear on the list of qualified volunteers shall be informed of such fact in writing by the certification administrator by mailing the same by first class United States mail, postage prepaid. No sooner than August 15 nor later than September 1 of each year forty-five days nor later than sixty days after the end of each year of service following the first year of service during which a service award benefit program has been in existence, the governing body of the city, village, or fire protection district conducting the program shall formally

approve and certify the list of those volunteers who have qualified as active emergency responders, active rescue squad members, or active volunteer firefighters. Any volunteer member whose name does not appear on the approved certification list may, prior to August 15 within fifteen days after the filing of the report, appeal in writing to the governing body to have his or her name added to the certification list by filing the same with the clerk of the governing body. The appeal shall set out the basis upon which the volunteer believes he or she should be placed upon the certification list and shall specify whether or not a public hearing is requested. If requested by the appealing party, the governing body shall hold a public hearing on the appeal prior to or upon the date upon which the certification list is approved. The governing body shall designate an appropriate person to investigate the appeal and report on its merits to the governing body which shall, by majority vote, add the name of the person to the certification list if there is sufficient evidence to indicate that the individual performed sufficient activities or services to qualify as an active emergency responder, active rescue squad member, or active volunteer firefighter as provided in the standard criteria for qualified active service during the prior year of service. The decision of the governing body may be appealed to the district court of the county in which the volunteer member resides.

Sec. 10. Each city, village, or rural or suburban fire protection district that relies in whole or in part upon the services of volunteers to provide the jurisdiction with fire protection and emergency response services shall file with the State Fire Marshal no later than July 1 of each year a report specifying the number of volunteer members serving the city, village, or fire protection district, whether their responsibilities involved fire protection or emergency response, and such other information as may be requested by the State Fire Marshal for the period of the immediately preceding calendar year. The State Fire Marshal shall compile the responses reported by the cities, villages, and rural and suburban fire protection districts and shall file a report on such information with the Clerk of the Legislature for distribution to the members of the Legislature no later than December 1, 2001, and no later than each succeeding December 1.

Sec. 11. Section 35-1312, Revised Statutes Supplement, 2000, is amended to read:

35-1312. (1) Except as provided in section 35-1313, service award benefits provided under a service award benefit program shall be paid to a participant only upon the date he or she reaches the age of sixty-five or upon July 1 the first day of the first year of service after the first year of service in which such participant was not on the certification list of his or her volunteer department, whichever is later, if the participant has been an active emergency responder, active rescue squad member, or active volunteer firefighter for not less than ten consecutive the number of years of service specified by the city, village, or fire protection district administering the service award benefit program.

(2) Upon the completion of ten consecutive the specified years of service as determined by the city, village, or rural or suburban fire protection district, the participant shall have a nonforfeitable interest in the annual accounts of all years of service in which such participant is listed on the certification list. Such interest is equivalent to a proportionate equal share with all other participants listed on the certification list for a year of service in (a) the principal amount of all contributions deposited into the annual account for such year of service and (b) all income derived therefrom.

Sec. 12. Section 35-1313, Revised Statutes Supplement, 2000, is amended to read:

35-1313. (1)(a) Service award benefits ~~shall~~ may be paid to a participant as provided in subsection (1) of section 35-1312 notwithstanding that such participant has not been an active emergency responder, active rescue squad member, or active volunteer firefighter for ~~ten consecutive the specified~~ years of service if such participant has qualified as an active emergency responder, active rescue squad member, or active volunteer firefighter in ten years of service out of eleven consecutive years of service ~~if~~ in the ~~year~~ years of service in which such participant did not qualify such failure was due (i) to a period during ~~the~~ a year of service in the armed forces of the United States upon active duty or (ii) to an injury or disability incurred by the participant and directly related to the participant's duties or activities as a volunteer member of the volunteer department.

(b) Upon the completion of ~~ten~~ the specified years of service pursuant to this subsection, the participant shall have a nonforfeitable interest in the annual accounts of all years of service in which such

participant is listed on the certification list. Such interest is equivalent to a proportionate equal share with all other participants listed on the certification list for a year of service in (i) the principal amount of all contributions deposited into the annual account for such year of service and (ii) all income derived therefrom.

(2) Service award benefits shall be paid to a participant as provided in subsection (1) of section 35-1312 notwithstanding that such participant had not been an active emergency responder, active rescue squad member, or active volunteer firefighter for ~~ten consecutive~~ the specified years of service if such participant suffered a permanent disability resulting from an injury incurred by the participant and directly related to the participant's duties or activities as a volunteer member of the volunteer department which disqualified the participant from further service as a volunteer. At the time such disability is confirmed and certified to the governing body of the city, village, or rural or suburban fire protection district conducting the service award benefit program, the participant shall have a nonforfeitable interest in the annual accounts of all years of service in which such participant is listed on the certification list. Such interest is equivalent to a proportionate equal share with all other participants listed on the certification list for a year of service in (a) the principal amount of all contributions deposited into the annual account for such year of service and (b) all income derived therefrom.

(3) Service award benefits shall be paid to the beneficiary of a participant notwithstanding that such participant has not been an active emergency responder, active rescue squad member, or active volunteer firefighter for ~~ten consecutive~~ the specified years of service if such participant dies in the course of his or her active service as a volunteer member of a volunteer department or dies as the result of injuries incurred by the participant directly related to his or her duties or activities as a volunteer member of a volunteer department. At the time of the participant's death, the beneficiary of the participant shall have a nonforfeitable interest in the annual accounts of all years of service in which the participant is listed on the certification list. Such interest is equivalent to a proportionate equal share with all other participants listed on the certification list for a year of service in (a) the principal amount of all contributions deposited into the annual account for such year of service and (b) all income derived therefrom.

(4) Service award benefits shall be paid to the beneficiary of a participant upon the death of a participant notwithstanding that such participant had not reached the age of sixty-five if such participant would have been entitled to receive service award benefits at age sixty-five pursuant to subsection (1) of section 35-1312 or subsection (1) or (2) of this section.

Sec. 13. Section 35-1316, Revised Statutes Supplement, 2000, is amended to read:

35-1316. (1) Each city, village, or rural or suburban fire protection district conducting a service award benefit program shall appropriate for the annual account for each year of service in which such program is in existence a sum equal to ~~not less than one hundred dollars times the number of participants listed on the certification list for that year of service. No later than October 15 immediately succeeding the end of the year of service for which such deposit is to be made,~~ the city, village, or rural or suburban fire protection district shall deposit the annual account with the State Treasurer to be determined by the governing body as sufficient to meet the purposes of the program.

(2) The total amount of all contributions from all sources made to any annual account shall not exceed three thousand dollars times the number of participants listed on the certification list for the year of service covered by that annual account. The service award benefit paid to a qualifying participant or beneficiary shall not include in any participant's share of an annual account any contributions made to the annual account for that year of service which are allocable to the participant or beneficiary in excess of the sum of three thousand dollars and any income derived from the investment of those excess sums.

(3) No city, village, or rural or suburban fire protection district conducting a service award benefit program shall incur any obligation or liability with regard to contributions into any annual account under such program beyond the amount of contributions actually appropriated by such local political subdivision for such purpose and actually distributed into such accounts.

Sec. 14. Section 35-1318, Revised Statutes Supplement, 2000, is amended to read:

35-1318. ~~No participant in a service award benefit program shall participate in or receive a service award benefit from more than one service award benefit program.~~ Any person who is a paid member of a fire department or other emergency response organization and who receives retirement benefits in consequence of such employment shall not be eligible to participate in any service award benefit program being conducted by the same city, village, or rural or suburban fire protection district which employs the person or which contracts for emergency response services with the fire department or emergency response organization which employs the person.

Sec. 15. Section 35-1320, Revised Statutes Supplement, 2000, is amended to read:

35-1320. Any city, village, or rural or suburban fire protection district conducting a service award benefit program shall, within thirty days after the adoption of a program, provide all volunteers providing its local political subdivision with emergency response services with a summary of the program's provisions, including the program's provisions relating to participation and the applicable standard criteria for qualified active service, the manner in which nonforfeitable interests in annual accounts are obtained, the amount of all contributions to the annual account, and any other information relating to participation in the program. The city, village, or rural or suburban fire protection district shall provide copies of the summary to all new volunteer members and to any applicant for membership to the volunteer department. Any material modification to the program shall be provided in writing to all participants within thirty days after its adoption by the city, village, or rural or suburban fire protection district. No later than December 1 of each year following the end of the first full year of service after the adoption of a service award benefit program, the city, village, or rural or suburban fire protection district shall provide to each participant listed in the certification list for that year of service a summary and copy of the relevant documents relating to the contributions to the annual account for such year of service. ~~and any other relevant documents or information provided by the Public Employees Retirement Board, the administrator of the program, or the State Fire Marshal.~~ By December 1 of each subsequent year, the city, village, or rural or suburban fire protection district shall provide each participant who appears for the first time in the certification list for the immediately preceding year of service with the same information. All documents relating to any program, the certification lists, the annual accounts, the investment of the funds of the annual accounts, the contributions to the account and the income derived therefrom, and the identity of the administrator of the annual accounts shall be public records within the meaning of section 84-712.01.

Sec. 16. Section 35-1321, Revised Statutes Supplement, 2000, is amended to read:

35-1321. ~~(1) Within thirty days after the adoption of a service award benefit program, the city, village, or rural or suburban fire protection district shall notify the State Fire Marshal of such fact. and file with the State Fire Marshal copies of the program documentation.~~

~~(2) Within thirty days after the adoption of any material modification to the program, including any change of certification administrator, the city, village, or rural or suburban fire protection district shall notify the State Fire Marshal of such fact and file with the State Fire Marshal copies of the appropriate documentation of the change.~~

Sec. 17. Section 35-1324, Revised Statutes Supplement, 2000, is amended to read:

35-1324. (1) All deposits made to annual accounts under any service award benefit program conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act, all property and rights purchased with such deposits, and all investment income, property, or rights attributable to such deposits shall be held in trust for the exclusive benefit of participants and their beneficiaries by the State of Nebraska city, village, or rural or suburban fire protection district conducting the program until such time as payments shall be paid under the terms of a program and the act. All such assets held in trust shall be invested by the city, village, or rural or suburban fire protection district conducting the program in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

(2) ~~The State Treasurer shall be the custodian of the funds and securities of such service award benefit programs and may deposit the funds and securities in any financial institution approved by the Nebraska~~

Investment Council. All disbursements therefrom shall be paid by him or her only upon vouchers duly authorized by the Public Employees Retirement Board. The State Treasurer shall furnish annually to the Public Employees Retirement Board a sworn statement of the amount of the funds in his or her custody belonging to service award benefit programs, which statement shall be as of the calendar year ending December 31 of each year.

(3) All deposits made to annual accounts under service award benefit programs, all property and rights purchased with the deposits, and all investment income, property, or rights attributable to such deposits under the Volunteer Emergency Responders Recruitment and Retention Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable.

Sec. 18. Section 35-1326, Revised Statutes Supplement, 2000, is amended to read:

35-1326. ~~The Public Employees Retirement Board~~ Any city, village, or rural or suburban fire protection district conducting a program may enter into an administrative services agreement with an appropriate organization authorized to conduct business in Nebraska to administer the service award benefit programs provided for in the Volunteer Emergency Responders Recruitment and Retention Act. No such agreement shall be entered into unless ~~the board determines that~~ it will result in administrative economy and will be in the best interests of ~~the state,~~ the participating cities, villages, and fire protection districts, and the participants in such programs.

Sec. 19. Section 35-1327, Revised Statutes Supplement, 2000, is amended to read:

35-1327. The agreement authorized by section 35-1326 shall provide:

(1) That the organization shall make all disbursements under the contract or contracts issued by it, such disbursements to be made in such manner and amounts as directed by the ~~state~~ city, village, or rural or suburban fire protection district conducting the service award benefit program whether on account of disability, death, the termination of a program, or the attainment of the appropriate age by a qualifying participant;

(2) That the organization shall include with each disbursement a statement showing the gross payment, any taxes withheld, and the net amount paid and an annual statement of account;

(3) That the organization shall furnish to the ~~Public Employees Retirement Board~~ city, village, or district a statement of all disbursements and withholdings as stipulated in the agreement on at least an annual basis, as agreed by the parties;

(4) Hold-harmless clauses protecting each party thereto from the negligent acts of the other or for any loss or claim against one party resulting from release of incorrect or misleading information furnished by the other party;

(5) For the right of the ~~state~~ city, village, or district, either directly or through independent auditors, to examine and audit the organization's records and accounts relating to disbursements made under the agreement;

(6) Protection to the ~~state~~ city, village, or district against assignment of the agreement or the subletting of work done or services furnished under the agreement;

(7) For termination of the agreement; and

(8) Such other terms as may be agreed upon and which the ~~Public Employees Retirement Board~~ city, village, or district determines to be in the best interest of ~~the state,~~ the participating cities, villages, and fire protection districts, and the participants in such programs.

Sec. 20. Section 35-1330, Revised Statutes Supplement, 2000, is amended to read:

35-1330. All unallocated contributions shall be ~~deposited in the Nebraska Service Award Benefit Expense Fund~~ used by the city, village, or rural or suburban fire protection district to finance the cost of conducting the service award benefit program.

Sec. 21. Section 84-1503, Revised Statutes Supplement, 2000, is amended to read:

84-1503. (1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To adopt and implement procedures for reporting information by employers, as well as sampling and monitoring procedures. The information necessary to determine membership shall be provided by the employer. The board shall adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision; and

(g) ~~To administer the service award benefit programs authorized in the Volunteer Emergency Responders Recruitment and Retention Act; and~~

~~(h)~~ To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 and to notify the Nebraska Retirement Systems Committee of the Legislature of the failure of any governmental entity to file such reports.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once in every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to three additional years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 31, 1992, and at intervals of not less than ten years and not more than fifteen years and shall be in such amounts as the Legislature shall direct, except that up to seventy-five thousand dollars may be transferred in FY1993-94 to assist in completing the study authorized in Legislative Resolution 328, Ninety-second Legislature, Second Session, 1992;

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which shall include, but not be limited to, the crediting of military

service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 1997, and every four years thereafter. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which shall include, but not be limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; and (iii) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) The board and the Nebraska Investment Council shall jointly have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. The analysis shall be prepared annually as of January 1. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement system. The analysis may be waived jointly by the board and the council for any retirement system with assets of less than ten million dollars. A copy of the analysis shall be given to the board, the council, and the Nebraska Retirement Systems Committee. By March 1 of each year, the analysis shall be presented to the Nebraska Retirement Systems Committee.

(4) By March 1 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be limited to, the board's funding policy, member education and informational programs, the director's duties and the limits on his or her authority, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

Sec. 22. Original sections 23-3547 and 23-3594, Reissue Revised Statutes of Nebraska, and sections 13-303, 35-514.02, 35-1301, 35-1303, 35-1309, 35-1310, 35-1312, 35-1313, 35-1316, 35-1318, 35-1320, 35-1321, 35-1324, 35-1326, 35-1327, 35-1330, and 84-1503, Revised Statutes Supplement, 2000, are repealed.

Sec. 23. The following sections are outright repealed: Sections 35-1304 to 35-1308, 35-1311, 35-1325, and 35-1328, Revised Statutes Supplement, 2000.

Sec. 24. Since an emergency exists, this act takes effect when passed and approved according to law.